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Remarks

The Examiner has objected to claim 37 under 37 CFR 1.75(c) as being in improper form. In response thereto, claim 37 has been amended appropriately. Review and acceptance is requested.

Claims 1 through 27, 31 through 36, and 38 stand rejected under 35 USC 103(a) as being unpatentable over Kroll '547 in view of Kauffman '889.

The Examiner has, however, indicated that claims 28 through 30 are objected to as being dependent upon a rejected base claim but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In response to these rejections, the Applicant has amended independent claim 17 to specify that the composition comprises at least one further component selected from the group consisting of castor wax, partially hydrated castor oil, and completely hydrated castor oil. The alternative recitations of triglycerides and of hydroxy carboxylic acid in the Markush group of previous claim 17 are the subject of the dependent claims, as discussed in more detail below. Moreover, amended claim 17 specifies that the weight ratio between the PCL the further component is between 20:80 and 80:20. Amended claim 17 also specifies that the claimed composition is blow moldable. Former dependent claim 18 has been amended to include the recitations of the hydroxy carboxylic acids of former claim 17, and claim 21 has been cancelled since its limitations are now incorporated into amended claim 17. Claims 22 and 23 have been amended for consistency with amended claim 17 and new claim 24 incorporates the triglyceride recitation of former claim 17 as a Markush

group. Claims 25 through 33 have been amended for consistency with the claims on which they depend. This is also the case for amended claim 38.

The Applicant has also entered new claims 39 through 42. New claim 39 is directed to a blow moldable composition consisting essentially of PCL and a further component selected from the group consisting of castor wax, partially hydrated castor oil, and completely hydrated cast oil. New claim 40 is dependent upon claim 39 and includes recitation of the hydroxy carboxylic acid limitations, and claim 41 recites the triglyceride limitations.

The Applicant has also entered new claim 42 which incorporates the limitations of allowable claim 28. In contrast to former claim 17, one of the castor wax, partially hydrated castor oil or completely hydrated castor oil components is no longer an optional member of the former Markush group, rather is explicitly recited in independent claim 42, along with the limitation of former claim 28. Since claim 28 is allowable, incorporation of its limitations in new claim 42 renders claim 42 allowable. In view thereof, no further discussion of allowable claim 42 will be undertaken below.

The Applicant respectfully submits that claim 17 as amended and new claim 39 are distinguishable from the prior art of record for the following reasons. '547 describes a composition for the production of breathable foils (see for example the abstract as well as claim 1 in column 15 beginning at line 23 in combination with the definition of "breathable" in column 1 lines 44/45) which, among other things, can contain thermoplastic polymers (see claim 6). Column 5 line 60 initiates recitation of possible ingredients which can be contained in the composition and column 6 line 21 indicates that a thermoplastic polymer in form of polycaprolactone can be used. Moreover, a plurality of softening agents

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(column 6 lines 41 and following) and/or waxes (column 8 lines 43 and following) can be utilized. The '547 reference explicitly mentions a castor wax (column 9 line 1). The melting region of the wax is described as being in excess of 70° C, preferentially in excess of 110° C or about 140° C (see column 9 lines 4 through 7).

The '547 patent therefore discloses the components recited in former claim 17. However, these components are only optional, additional materials in the composition in accordance with the '547 patent. '547 necessarily contains a radiation curable i.e. duroplastic component (see feature b) of claim 1 of the '547 disclosure). However, the inclusion of such a duroplastic component is not possible in accordance with the instant invention as articulated in amended claim 17, since inclusion of such a component would preclude the blow moldable character of the invention as explicitly recited at the end of that claim. By the same token, claim 39 is directed to a blow moldable composition which consists essentially of PCL and castor wax, castor oil or hydrated castor oil. Use of the term "consisting essentially of" in claim 39 precludes incorporation of any material which would prevent the composition from being blow moldable, since claim 39 is directed to such a blow moldable composition. It is therefore clear, that both claims 17 and 39 exclude the possibility of radiation curable (duroplastic material), which is essential to the '547 patent to accomplish its intended purpose. Moreover, with regard to claim 39, the copolymers preferred by the '547 patent (see feature a) of claim 1) are excluded by the terminology "consisting essentially of".

US '889 is directed to a hot melt composition which, in addition to the features recited in claim 1 thereof (column 9 lines 39 and the following) can also contain components including castor wax from 0 to 20 % (column

2 lines 39 through 40) and up to 20 % of polycaprolactone (column 4 lines 23 through 28). Amended claim 17 is distinguished from the '889 disclosure, since it explicitly requires a ratio of between 20:80 and 80:20 between the PCL and the further component. This lies beyond the upper range of the additives suggested by the '889 disclosure and therefore cannot be construed as being taught by that disclosure. Moreover, amended claim 17 explicitly requires that the composition be blow moldable. However, the '889 disclosure requires the presence of linear polyesters of 3-hydroxy butyric and 3-hydroxyvaleric acids. Since, amended claim 17 requires the material to be blow moldable, '889 cannot be construed as teaching the limitations of amended claim 17, since the effect of the substantial amounts of linear polyesters required by Kauffman on the blow moldability of amended claim 17 is not clear. These comments also apply to claim 39, since claim 39 is directed towards a blow moldable composition in view of the terminology "consisting essentially of". Moreover, the '889 disclosure is directed to a thermoplastic adhesive. The Kauffman disclosure provides no indication that the compounds are blow moldable.

The invention teaches a combination of PCL and at least one of castor wax, partially hydrated castor oil, and completely hydrated castor oil which is blow moldable. Despite the addition of relatively brittle wax components to the PCL, the good flexibility and material properties of the PCL are nevertheless maintained in accordance with the teaching of the invention, thereby providing for a blow moldable composition. In contrast thereto, '547 requires a hardened duroplastic polymer composition and '889 teaches a hot melt adhesive. Such teachings provide no reasonable basis for the limitations of the invention as claimed.

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The Applicant therefore submits that the invention as claimed is sufficiently distinguished from the prior art of record to satisfy the conditions for patenting in the United States and respectfully requests passage to issuance.

No new matter has been added in this amendment.

Respectfully submitted,

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